

September 16, 2024

VIA EMAIL & US MAIL

Gary Iocco – Iocco for Red Wing Mayor
1837 Woodland Drive
Red Wing, MN, 55066
iocogary@gmail.com

RJJ Redwing LLC
c/o John Dehn, Dehn Oil Co.
6735 141st Ave. N.
Ramsey, MN, 55303

Wilson Oil Co.
c/o Mike Wilson
2355 Old West Main
Red Wing, MN, 55066

VIA EMAIL ONLY

Carol A. Overland
Legalelectric
1110 West Ave
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Overland@legalelectric.org

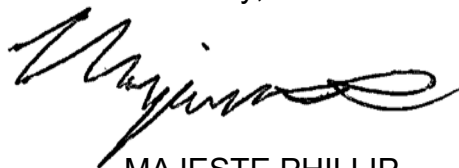
Re: *In the Matter of Carol A. Overland v. Gary Iocco - Iocco for Red Wing Mayor, RJJ Redwing LLC, and Wilson Oil Co.*
OAH 21-0325-40299

Dear Parties:

Enclosed and served upon you please find the **NOTICE OF DETERMINATION OF PRIMA FACIE VIOLATION AND ORDER FOR PROBABLE CAUSE HEARING** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7853, majeste.phillip@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



MAJESTE PHILLIP
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Carol A. Overland,
Complainant,

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION AND
ORDER FOR PROBABLE CAUSE
HEARING**

vs.

Gary Iocco, Iocco for Red Wing Mayor,

Respondents.

On September 11, 2024, Carol A. Overland (Complainant) filed a Fair Campaign Practices Complaint (Complaint) with the Office of Administrative Hearings. The Complaint alleges that Gary Iocco, Iocco for Red Wing Mayor, RJJ Redwing LLC, and Wilson Oil Co. (Respondents) violated provisions of the Fair Campaign Practices and Finance Acts¹ as well as campaign finance and disclosure law² with respect to a rooftop campaign sign in Red Wing, MN, erected as part of Respondent Iocco's campaign for Mayor of Red Wing.

Following a review of the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint establishes prima facie violations of Minn. Stat. §§ 211A.06, subd. 6 and 211B.15, subd. 2(b). For the reasons detailed in the Memorandum below this matter will proceed to a probable cause hearing on the § 211A.06 and § 211B.15, subd. 2(b) claims only. All other allegations are dismissed. As a result, Respondents RJJ Redwing LLC and Wilson Oil Co. will be dismissed from the matter as well.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a probable cause hearing to be held before the undersigned Judge on **Thursday, September 19, 2024, at 1:00 p.m.** The hearing will be held by telephone, and the parties must call in for the conference. At the appointed time, the parties are directed to:

- (a) Telephone **651-395-7448**, and, when prompted,
- (b) Enter the conference code: **255 167 715#**.

¹ Minn. Stat. §§ 211A.06, 211B.015 (2024).

² Minn. Stat. § 10A.13 (2024).

The probable cause hearing will be conducted pursuant to Minn. Stat. § 211B.34. Information about probable cause proceedings and copies of state statutes may be found online at <http://mn.gov/oah> and www.revisor.leg.state.mn.us.

At the probable cause hearing all parties have the right to be represented by legal counsel or appear on their own behalf. In addition, the parties have the right to submit evidence, affidavits, and argument for consideration by the Judge.

By 4:30 p.m. on September 18, 2024, the parties must provide to the Judge all evidence bearing on the case, with copies of the same items sent to the opposing party. Due to the expedited nature of this matter, the parties shall provide copies of any filings to the opposing party via email.

Any document filed with the Office of Administrative Hearings, or any documents that a party wishes to make part of the hearing record, may be filed in one of the following ways: (1) by eFiling through the Office of Administrative Hearings' eFiling system; (2) by mail; (3) by facsimile; or (4) by personal delivery. See Minn. Stat. § 14.58; Minn. R. 1400.5550, subp. 5.

The eFiling system is accessible at: <http://mn.gov/oah/forms-and-filing/efiling/>.

The Office of Administrative Hearings' facsimile number is: (651) 539-0310

After the probable cause hearing, the Judge will either: (1) dismiss the Complaint based on a determination that the Complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the Complaint has occurred; or (2) determine that there is probable cause to believe that the violation of law alleged in the Complaint has occurred and refer the case to the Chief Administrative Law Judge to schedule an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minn. Stat. § 211B.35.

If the Judge dismisses the Complaint, the Complainant may seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minn. Stat. § 211B.34, subd. 3.

The Parties have not requested the appointment of an interpreter. To request an interpreter, please email oah.courtpersonnel@state.mn.us or call (651) 361-7900."

A failure by any party to participate and appear by telephone at the probable cause hearing may result in a finding of default, and the Complaint may be dismissed or disposed of pursuant to Minn. Stat. § 211B.35, subd. 2.

Dated: September 16, 2024



KIMBERLY MIDDENDORF
Administrative Law Judge

MEMORANDUM

The Complaint in this matter focuses on a rooftop campaign sign that reads “Gary locco for Mayor” located on a building adjacent to Highway 61 in Red Wing, Minnesota.³ Gary locco is currently a candidate in the mayoral race there, and the general election is scheduled for Tuesday, November 5, 2024. Who currently owns the building the sign is attached to is unclear.⁴ According to Respondent locco’s Campaign Financial Report for on July 26, 2024 \$1.00 of campaign funds was used for a “sign lease.”⁵ That report also shows a disbursement of \$800 for a sign on July 31, 2024.⁶ The only contributions to Respondent locco’s campaign listed in the report are a loan of \$2000 from Gary locco and a donation of \$500 from Barbara Haley.⁷

Complainant alleges that the lease and sign disbursements listed in the Campaign Finance Report are for the rooftop sign adjacent to Highway 61, and that the \$1.00 lease constitutes an underreported contribution.⁸ Furthermore, based on the Complainant’s information regarding the ownership of the building involved in that lease, the allegation is that this contribution comes from a corporation – either RJJ Redwing, LLC, Wilson Oil Co., or both.⁹

I. Standard for Prima Facie Determinations

To establish a prima facie violation of the Fair Campaign Practices Act, a complainant must allege sufficient facts to show that a violation of law has occurred.¹⁰

³ Complaint Form for Violations of the Fair Campaign Prac. Act or Campaign Fin. Act at 3-4 (Sep. 11, 2024) (Complaint).

⁴ Complaint at 4-8.

⁵ *Id.* at Attachment 1.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4-8.

⁹ *Id.*

¹⁰ Minn. Stat. § 211B.32, subd. 3 (2024).

The complaining party must submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37.¹¹

For purposes of a prima facie determination, this tribunal must accept the facts that are alleged in the Complaint as true, without independent substantiation, provided that those facts are not patently false or inherently incredible.¹² In determining whether a complaint alleges sufficient facts to state a prima facie case, reasonable inferences must be drawn in the light most favorable to the complainant.¹³

A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of law.¹⁴

II. Financial Reports (Minn. Stat. § 211A.02)

Minn. Stat. § 211A.02 requires any candidate “who receives contributions or makes disbursements of more than \$750 in a calendar year” to submit financial reports such as the one attached to the Complaint in this matter.¹⁵ Subdivision 2 of that statute requires such reports to include “the total amount of contributions and disbursements for the period from the last previous report to five days before the current report is due” and “the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution.”¹⁶

The category of “contributions” is broad, defined in the statute as “anything of monetary value that is given or loaned to a candidate or committee for a political purpose.” “Contribution” does not include a service provided without compensation by an individual.¹⁷ A lessor agreeing to lease their property for under its fair market value would, under this definition, constitute a contribution that must be reported.

The Complaint alleges that the \$1.00 sign lease “is far below market value for a sign that’s roughly 20’ x 10’ in a high traffic area on Highway 61 in the middle of Red Wing” and that Respondent locco has failed to report that contribution properly on the relevant financial report.¹⁸ The Administrative Law Judge finds that these facts, taken as true, are sufficient to make a prima facie case for a violation of Minn. Stat. § 211A.02.

¹¹ *Barry v. St. Anthony-New Brighton Indep. Sch. Dist.* 282, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

¹² *Id.*

¹³ *Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).

¹⁴ *Barry*, 781 N.W.2d at 902.

¹⁵ Minn. Stat. 211A.02, subd. 1(a) (2024).

¹⁶ *Id.* at subd. 2.

¹⁷ Minn. Stat. 211A.01, Subd. 5.

¹⁸ Complaint at 8.

III. Prohibited Corporate Contributions (Minn. Stat. § 211B.15)

The complaint alleges that the \$1.00 lease agreement contribution made to Respondent Iocco came from a corporation – RRJ Redwing LLC, Wilson Oil Co., or both.¹⁹ Minn. Stat. § 211B.15 prohibits corporations from contributing “anything of monetary value” to a candidate or committee “to promote or defeat the candidacy of an individual for nomination, election, or appointment to political office.”²⁰ Additionally, a political party, organization, committee, or individual “may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making” by that same statute.²¹

Respondent’s financial report does not state to whom the \$1.00 was paid. In contrast, the Complaint contains detailed information regarding the ownership of the building the sign is attached to –presumably the party or parties responsible for leasing that space.

The building the sign sits on does not appear to have its own street address – it is located in the back of a plot that is accessed via Old West Main St.²² The land the building sits on is currently owned by RRJ Redwing LLC, a company headquartered in Ramsey, Minnesota and managed by John Dehn.²³ The buildings on the land appear to either be owned or leased by Wilson Oil Company, which was also the prior property owner.²⁴ At this point, taking the information contained in the complaint as true, the ownership of the building in question – and thus the lessor of that building – appears to be one or more corporations.

The Judge finds that for the purposes of this prima facie determination, Complainant has alleged sufficient facts to state a prima facie case that Respondent Iocco accepted a donation from a corporation in violation of Minn. Stat. § 211B.15, subd. 2(b). Likewise, Complainant has alleged a prima facie case that RRJ Redwing LLC and Wilson Oil Co. made an unlawful corporate contribution to a political campaign. As a result, this violation will advance to a probable cause determination against all three respondents.

IV. Failure to keep account; penalty (section 211A.06)

Based on a review of a campaign financial report filed by Respondent Iocco on August 5, 2024, Complainant asserts that Respondent Iocco violated

¹⁹ *Id.*

²⁰ Minn. Stat. § 211B.15, subd. 2(a).

²¹ Minn. Stat. § 211B.15, subd. 2(b).

²² Complaint at 5-7.

²³ *Id.* at 6-7.

²⁴ *Id.* at 7-8 (The Complaint also notes that an unrelated Campaign Financial Report from 2018 discloses a \$100 “lease of building for rooftop sign” disbursement to Wilson Oil and alleges that this resulted in the posting of a “similar rooftop campaign sign.”).

Minn. Stat. § 211A.06.²⁵ The statute states, in part, that a candidate is guilty of a misdemeanor if the candidate “fails to keep a correct account as required by law,” and does so “with the intent to conceal receipts or disbursements, the purpose of receipts or disbursements, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed.”²⁶

Accepting the facts alleged as true, which is required at this stage of review, the Judge finds Complainant has not alleged sufficient facts to support finding a prima facie violation of § 211A.06. The complaint lists § 211A.06 as one of the statutes “at issue,” and as discussed above, plausibly alleges that the campaign finance records filed by Respondent locco are deficient.²⁷ Complainant alleges no facts nor makes any assertions regarding Respondent’s intent as required by the statute. Additionally, that statute applies only to “a treasurer or other individual who receives money for a committee” – and the Complaint lacks any allegation that a committee or treasurer is involved in Respondent locco’s campaign.²⁸

V. Accounts that Must be Kept (Minn. Stat. § 10A.13)

The Complaint alleges that the Respondents have violated Minn. Stat. § 10A.13. That statute sets out requirements for record keeping that is to be completed by the treasurer of a political committee, political fund, principal campaign committee, or party unit.²⁹ The Office of Administrative Hearings has authority to hear complaints of alleged violations of Chapters 211A and 211B,³⁰ while violations of Chapter 10A are within the exclusive jurisdiction of the Campaign Finance and Public Disclosure Board.³¹ As a result, this claim is dismissed for lack of jurisdiction.

VI. Conclusion

The Complaint establishes prima facie violations of Minn. Stat. §§ 211A.02, subd. 2, and 211B.15, subd. 2(b) by Respondents. These claims will proceed to a probable cause hearing. All other claims are **DISMISSED**.

K. J. M.

²⁵ *Id.* at 1, 4.

²⁶ Minn. Stat. § 211A.06 (2024).

²⁷ Complaint at 4.

²⁸ Minn. Stat. § 211A.06 (2024) (note that an amendment to the statute adding ‘candidate’ to the persons to which this requirement applies will go into effect on August 1, 2025).

²⁹ Minn. Stat. § 10A.13, subd. 1 (2024).

³⁰ Minn. Stat. § 211B.32 (2024).

³¹ Minn. Stat. § 10A.22, Subd. 3 (2024); Minn. Stat. § 211B.32, subd. 1(b) (2024).